

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DARRELL E. JOHNSON, d/b/a JOHNSON WATER)	
SYSTEM)	
_____)	CASE NO. 96-504
)	
ALLEGED VIOLATIONS OF KRS CHAPTER 278 AND)	
807 KAR CHAPTER 5)	

O R D E R

In July 1996, the Commission was informed by Pulaski County Water District No. 2 ("Pulaski Water") that Darrell E. Johnson, 1380 Todd Farm Road, Nancy, Kentucky had extended a 2-inch water main to provide water service to individuals residing on Todd Farm Road in Pulaski County, Kentucky. Commission Staff conducted an investigation on August 12, 1996, and the findings contained in Staff's Investigation Report are incorporated herein as Appendix A.

Darrell E. Johnson initially applied for service from Pulaski Water in November 1993. Mr. Johnson requested and received a 2-inch meter which was set adjacent to the intersection of Todd Farm Road and KY 80. Mr. Johnson then constructed a 2-inch water line to his home, a distance of approximately 1.4 miles from the meter. According to the report, Mr. Johnson then extended the water line an additional .2 mile to the bank of Fishing Creek.

Mr. Johnson has allegedly demanded and received from at least five "customers" a connection charge of \$2,500 each, allowing those customers to tap into and receive

service from the line. A new home has been constructed along Todd Farm Road and will become an additional customer once the home is sold. Each customer is individually metered, however, Mr. Johnson divides his monthly bill for water service from Pulaski Water by six and bills each customer monthly.

From the facts alleged, Darrell E. Johnson owns, controls, operates, and manages facilities used to distribute and furnish water to the public for compensation and is a utility as defined by KRS 278.010(3)(d). As a utility, Mr. Johnson's activities are within the jurisdiction conferred upon the Commission by KRS 278.040(2).

Commission records reflect that Darrell E. Johnson has never been authorized to construct a water distribution system or operate as a public utility, a violation of KRS 278.020. Darrell E. Johnson has no tariff on file with the Commission for the provision of water service, a violation of KRS 278.160 and 807 KAR 5:011. Darrell E. Johnson has not filed an annual report, or any other financial or statistical information with the Commission as required by KRS 278.140, KRS 278.130, and 807 KAR 5:006.

Pulaski Water's tariff provides that water furnished shall be used for domestic consumption by the member and his household or employees and prohibits the sale of water by the member. Darrell E. Johnson is allegedly selling water for domestic consumption in violation of Pulaski Water's tariff.

Based upon the foregoing, the Commission finds that a prima facie showing has been made that Darrell E. Johnson has violated KRS Chapter 278, 807 KAR Chapter 5 and is operating an unauthorized utility. Darrell E. Johnson should appear at a hearing to show cause why he should not be subjected to civil penalties of up to \$2,500 for each of the offenses noted herein pursuant to KRS 278.990(1).

IT IS THEREFORE ORDERED that:

1. Darrell E. Johnson shall immediately notify each of the individuals served from his line on Todd Farm Road of the institution of this action by providing a copy of this Order to each. Darrell E. Johnson shall certify to the Commission in writing within 14 days of the date of this Order that each of the individuals has been notified in compliance with this Order.

2. Darrell E. Johnson shall respond in writing to each of the allegations noted in this Order and in the Investigation Report attached as Appendix A within 14 days of the date of this Order. Failure to respond shall constitute an admission of all allegations.

3. Darrell E. Johnson shall provide a list of all "customers" served from his line on Todd Farm Road, including all connection charges paid by each and all amounts collected from each for the last two years.

4. Darrell E. Johnson shall appear at a hearing scheduled for December 16, 1996, at 10:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky to show cause why civil penalties should not be assessed pursuant to KRS 278.990(1) for the violations noted herein and why refunds of all monies collected should not be ordered.

5. Darrell E. Johnson may, within 14 days of the date of this Order, request in writing that an informal conference be held prior to the formal hearing scheduled above.

6. Pulaski Water is hereby made a party to this proceeding.

Done at Frankfort, Kentucky, this 4th day of November, 1996.

PUBLIC SERVICE COMMISSION

Linda K. Breathitt
Chairman

Edwin J. H. Baker
Vice Chairman

B. J. Helton
Commissioner

ATTEST:

Don Mills
Executive Director

APPENDIX A

AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 96-504 DATED NOVEMBER 4, 1996

Commonwealth of Kentucky
Public Service Commission

INVESTIGATION REPORT

Darrell E. Johnson Water System
Pulaski County, Kentucky

On August 12, 1996, an investigation was made of the Todd Farm Road area, Pulaski County, Kentucky, on the basis of a letter from D. Bruce Orwin to the Public Service Commission on July 9, 1996. D. Bruce Orwin is an attorney in Pulaski County representing Pulaski County Water District #2. The subject investigation was conducted by K. Michael Newton of the Commission Staff with information provided by Steve Shepperd, manager of Pulaski County Water District #2 (Pulaski #2), Darrell E. Johnson, and Sarah Gold, Regional Supervisor with Division of Water.

Investigation

This investigation included the general inspection of the distribution system, the review of office billing records, interviews with staff at Pulaski #2, Darrell E. Johnson, and the Natural Resources' Division of Water Regional Supervisor, Sarah Gold.

In November of 1993, Darrell E. Johnson applied for a 2-inch water meter to his home on Todd Farm Road from Pulaski #2. Pulaski #2 did not have any water main extending along Todd Farm Road therefore Darrell Johnson's water meter was set adjacent to the intersection of Todd Farm Road and State Highway 80. Darrell E. Johnson extended a 2-inch water main back to his home located approximately 1.4 miles on Todd Farm Road. Since 1993, Darrell E. Johnson has added additional services to homes along Todd Farm Road and has extended the water main to the banks of Fishing Creek a contributory to Lake Cumberland. The 2-inch water main now extends approximately 1.6 miles. A map

Investigation Report - Johnson Water System
Page 2

showing the location of this water system is attached. There are currently six customers attached to the Darrell E. Johnson Water System ("Johnson Water"). Darrell E. Johnson is owner of Johnson Water. Darrell E. Johnson stated that the average water bill per customer is \$18 to \$20.

Each customer of Johnson Water has paid a \$2,500 connection fee. All customers are individually metered, however each is currently being billed by dividing up the overall water bill Johnson Water receives from Pulaski #2 by six. Darrell E. Johnson sends out and collects a monthly water bill from each customer. A new home has been constructed in the last few months along Todd Farm Road and it will become an additional customer once this home is sold.

Pulaski #2 tariffs show that the rate schedule for a 2-inch water meter is \$66.50 for the first 20,000 gallons and \$2.92 per 1,000 gallons afterward. Johnson Water averages using 35,000 gallons per month. Pulaski #2's records indicate Johnson Water is current on its payments to the utility. In addition, Pulaski #2's tariff state, "water furnished by the Company shall be used for domestic consumption by the member, members of the household, and employees only. The customer shall not sell water to any other person or permit any other person to use said water. Water shall not be used for irrigation, fire protection, or other purpose, except that when water is available in sufficient quantity without interfering with the regular domestic consumption. Disregard for this rule shall be sufficient cause for refusal or discontinue service." (VI. Member's Responsibility 1 - See Attachment A)

Sarah Gold of Natural Resources' Division of Water stated that Darrell E. Johnson is not a certified distribution operator nor have plans for Johnson Water ever been

approved by their agency. Darrell E. Johnson does not take any water samples pursuant to Division of Water requirements. The Division of Water had no knowledge of the existence of Johnson Water prior to this investigation.

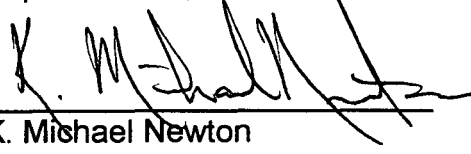
Conclusions

1. Darrell E. Johnson has constructed a water distribution system in the service boundary area of Pulaski #2 which is in violation of Pulaski #2's tariff.
2. Darrell E. Johnson did not apply for or receive a Certificate of Convenience and Public Necessity to construct a water distribution system in Pulaski County as set out in KRS 278.020.
3. The rates, rules, regulations, and any contractual agreements of Johnson Water have never been filed with the Commission as set out in 807 KAR 5:011.
4. Darrell E. Johnson has never filed an Annual Report containing financial and statistical information with the Commission as set out in 807 KAR 5:006.
5. It appears that Darrell E. Johnson owns, controls, operates, and manages a distribution system used in connection with furnishing water service to the public for compensation as defined by Section (3) (d) of KRS 278.010.

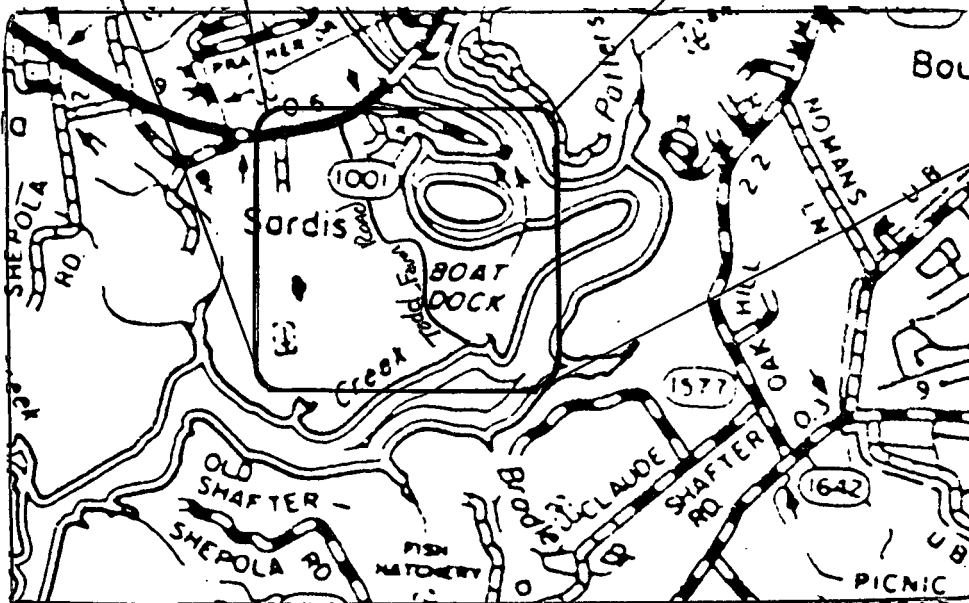
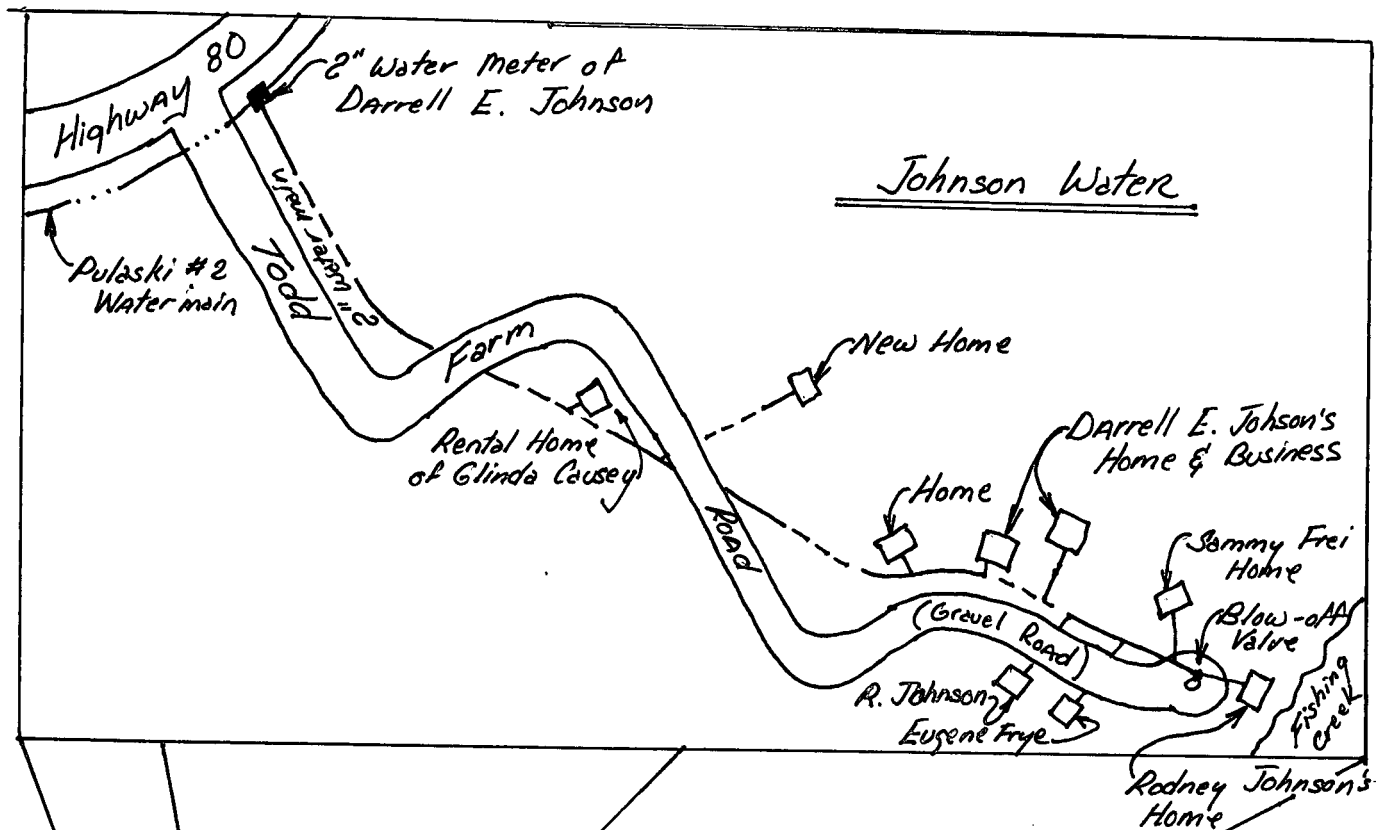
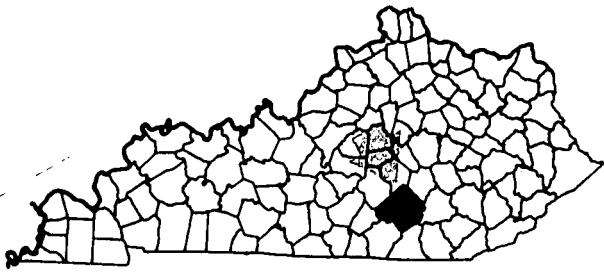
Recommendations

The Commission's office of General Counsel should review this matter and determine the appropriate course of action.

Submitted,
September 10, 1996


K. Michael Newton
Utility Investigator

Pulaski County



FOR W. Pulaski Co., N. Wayne Co., S.E. Russell

P.S.C. KY. NO. _____

SHEET NO. 10

Pulaski County Water Dist. #2

CANCELLING P.S.C. KY NO. _____

SHEET NO. 10

RULES AND REGULATIONS

- I. Water furnished by the Company shall be used for domestic consumption by the member, members of his household, and employees only. The customer shall not sell water to any other person or permit any other person to use said water. Water shall not be used for irrigation, fire protection, or other purpose, except that when water is available in sufficient quantity without interfering with the regular domestic consumption. Disregard for this rule shall be sufficient cause for refusal or discontinue service.

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE

DATE OF ISSUE

MONTH DATE YEAR

DATE EFFECTIVE

MAY 15 1996

MONTH DATE YEAR

ISSUED BY

SIGNATURE OF OFFICER

TITLE

1059 West Hwy 80, Somerset, KY 425

BY ADDRESS